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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,311	06/20/2001	Bryan Patrick Livengood	LE9-99-015	4577

21972 7590 05/02/2003

LEXMARK INTERNATIONAL, INC.  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
740 WEST NEW CIRCLE ROAD  
BLDG. 082-1  
LEXINGTON, KY 40550-0999

EXAMINER

RODEE, CHRISTOPHER D

ART UNIT

PAPER NUMBER

1756

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/885,311

Applicant(s)

LIVENGOOD ET AL.

Examiner

Christopher D RoDee

Art Unit

1756

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 30.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1 and 3-22.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
CHRISTOPHER RODEE  
PRIMARY EXAMINER

Continuation of 2. NOTE: The proposed amendments to the specification will not be entered because they further modify the description of the term "random copolymer", which appears in the pending claims. The specification as filed provides guidance to the meaning of this term and the artisan considering the claims would look to the specification as filed for this guidance. The proposed amendments include deletions objected to in the last Office action (i.e., the present amendment deletes some of the same material previously deleted as well as removing substantial portions of the description of "block copolymers" which are used to define "random copolymers" by way of contrast (spec. p. 12). The amendment also deletes the description of the range of copolymers included within the range of "random copolymers" (spec. p. 14-15). The new submission raises the issue of new matter in the specification because it changes the interpretation of the claim term "random copolymer" so that further consideration of the claims would be required. The amendment is also improper because it does not properly amend the specification as presented at Final but amends from an earlier version of the specification. There is also no showing why these amendments are proper now and could not have been earlier presented.

Continuation of 5. does NOT place the application in condition for allowance because: of the same reasons as given for box 2. Additionally, the Crystal reference remains applicable because it discloses, *ipsis verbis*, a random copolymer.